

Notice of Funding Availability (NOFA)

**MULTIFAMILY HOUSING PROGRAM (MHP)
SUPPORTIVE HOUSING COMPONENT**

January 3, 2007

State of California
Department of Housing and
Community Development

NOTICE OF FUNDING AVAILABILITY (NOFA)
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MULTIFAMILY HOUSING PROGRAM
SUPPORTIVE HOUSING COMPONENT**

January 3, 2007

Supportive Housing Funding: \$37million

PROGRAM DESCRIPTION**A. Introduction**

The California Department of Housing and Community Development (hereinafter "HCD" or "Department") is announcing the availability of funding for the development of rental housing containing permanent Supportive Housing units under the Multifamily Housing Program (MHP). Funding for this NOFA is provided under the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C). Applications under this NOFA will be accepted on an "over-the-counter" basis beginning on February 1, 2007.

Other related funding opportunities include:

- Under the Governor's Homeless Initiative (GHI) NOFA, applications are currently being accepted for Supportive Housing projects serving households with an adult member who is chronically homeless and severely mentally ill.
- An MHP "General" NOFA will be issued later this month offering funding on a competitive basis for a variety of project types.
- In late January, 2007, HCD will also issue a NOFA for the MHP funds earmarked for housing for homeless youth.

Information on all of these funding opportunities is or will be available on the Department's website at <http://www.hcd.ca.gov/fa/mhp>.

B. Legal Authority

MHP was established by SB 1121, Statutes of 1999 (Alarcón), which created Chapter 6.7, commencing with Section 50675, of the Health and Safety Code. In addition to the requirements of this NOFA, applications shall be subject to two sets of regulations, the MHP-specific Regulations (including Article 6. Supportive Housing Loans) and the Uniform Multifamily Housing Regulations (UMR), both of which are available on the Department's website at

<http://www.hcd.ca.gov/fa/mhp>. Applications submitted under this NOFA are also subject to the applicable statutory requirements (including those of Proposition 1C and SB 1689 of 2006).

All section references in this NOFA refer to the MHP regulation text posted on the Department website, unless otherwise noted. UMR section references refer to the Uniform Multifamily Regulations.

C. Program Summary

MHP is a streamlined, omnibus financing program for affordable multifamily housing developments. It provides funds to cover development (capital) costs only, and cannot be used for services or operating subsidies.

Applicants may apply for funding for: (1) projects containing Supportive Housing units only or (2) projects containing Supportive Housing and other units (mixed projects). Under this NOFA, maximum loan amounts will be based on the number of Supportive Housing units.

“Supportive Housing Units” means units offered as permanent housing linked to supportive services, where occupancy is restricted to households that both (1) are homeless or at risk of homelessness and (2) include a disabled adult. See Paragraph I for a definition of “homeless or at risk of homelessness” and a list of qualifying disabilities.

D. Highlighted Program Issues and Program Changes

1. Loan Amounts

Under Proposition 46, MHP General Component funds were available to fund Non-Supportive Housing units in qualified Supportive Housing projects. Under Proposition 1C, MHP General funds will no longer be available for use under the Supportive Housing NOFA. Consequently, only the Supportive Housing units will be used as the basis for loan amount calculations. Unit loan award amounts have been increased for the Supportive Housing units. Supportive Housing project sponsors wishing to calculate total project loans on the basis of all project units may designate all units as Supportive Housing units or alternatively, may apply under the competitive MHP General NOFA. Applicants may not apply under both the MHP Supportive Housing and MHP General NOFAs. Please see Paragraph K for more information on loan calculations.

2. Advantages for Projects Serving the Homeless

Advantages to encourage greater occupancy levels by households which are Homeless have been implemented in this NOFA. Department-approved Supportive Housing projects reserving at least 35 percent of the total project units for households which are Homeless may opt for either: (1) higher loan amounts (please see Paragraph K), or (2) allowance to utilize 9 percent tax credits (please see Paragraph G).

3. Replacement Reserve Deposits

Minimum amounts required for initial deposits to replacement reserve accounts were changed on August 1, 2005. The new deposit amounts are as follows:

- The deposit amount required for new construction or conversion projects is 0.6 percent of the structure construction cost, up to \$600 per unit, or \$500 per unit if the project is receiving permanent financing from the California Housing Finance Agency (CalHFA). The required amount may be adjusted based on the results of a third-party Reserve Study approved by the Department, covering the 55-year term of the Department assistance.

“Structure construction cost” does not include construction contingency, general contractor profit, overhead, or general requirements.

- The deposit amount required for rehabilitation projects will be determined by the Department based on a third-party Physical Needs Assessment (PNA).

At the time of application, prior to completion of the PNA, the Department will base its underwriting on a preliminary estimate. The preliminary estimate for use under this NOFA is \$469 per unit.

4. Market Studies

The Department strongly suggests that Supportive Housing Project Sponsors include a Market Study with the application for funding. The Department’s experience indicates that the attainability of the proposed rents is an issue in many Supportive Housing projects. Market Studies will be required for all projects where the Department is unable to make a clear determination that income proposed from rents is realistic. Absent the ability to make such a determination, the Department will not recommend a project for funding. Consequently, failure to submit a Market Study with the application for funding could result in a substantial delay in, or ultimate denial of, a funding award.

Market Studies must include analysis related to the proposed target populations and be performed in accordance with the most recent version of the California Tax Credit Allocation Committee (TCAC) Market Study Guidelines dated February 2006. The Department recognizes that information relevant to Supportive Housing and Special Needs Populations may be difficult to obtain. Market Studies addressing these populations may require analysis and research beyond that which is necessary for general occupancy projects. Market Studies must address in separate subsections, each housing type and specific population to be served by the development. For example, if a development is intended to be reserved partially for Supportive Housing eligible households, partially for Special Needs Populations, and partially for general populations, separate subsections of the study must address the population/household trends, the demand estimate and the absorption rate for

each of these population types. If comparable projects housing the target population exist, occupancy rates for these projects must be highlighted. The Department expects that the market analyst will consult with service providers, representatives of other projects housing the target population, and cite the local Housing Element or Consolidated Plan and other relevant sources that contain information relevant to the target population.

If you have questions with regard to preparation or submittal of the Market Study, please contact a Department Representative.

5. Local Rent Subsidies – Point Scoring Bonus

Projects documenting funding commitments from local governments for operating subsidies, or services funding, or both, for five years or longer will receive a five point bonus for project point scoring. Federal funding administered by local governments and Mental Health Services Act funding committed by local governments will qualify for the bonus.

6. Application for Funding

The new “Universal Application” will be utilized for the first time by the Department in the Spring of 2007. The body of the application will be common to the MHP Supportive Housing program, other Department programs, CalHFA, and TCAC. The application will also include an addendum specific to the requirements of the MHP Supportive Housing program.

In the event the new application is not available for use at the outset of the application submittal period, applicants may request Department approval to use the standard MHP Supportive Housing application (as updated January, 2007) until such time as the new Universal Application is available. The Department will publish a notice when the new application is available.

7. Geographic Considerations for Funding Distribution

MHP’s enabling statute requires the program to “ensure a reasonable geographic distribution of funds.” The Department will endeavor to award no less than approximately 45 percent of the total Proposition 1C MHP Supportive Housing funds to projects in Southern California. In approximately June of 2008, the Department will evaluate the geographic distribution of the total funding awards as of that date. Should the Department determine that a funding imbalance exists, it reserves the right, in its sole discretion, to create geographic set-asides or make other administrative adjustments as needed in order to direct adequate funding to Southern California.

For the purpose of geographic distribution, Southern California includes the counties of Kern, San Bernardino, San Luis Obispo, and all counties to the south.

8. Reporting

The ballot measure for Proposition 1C contains language that indicates that its programs will be serving several identified targeted populations. Most of the identified populations are either targeted by specific programs or easily identified through specific programs by the nature of the facility funded. However, none of the programs funded through Proposition 1C specifically target the elderly or veteran populations. Accordingly, the Department is requiring grant and loan recipients, for its multi-family programs, obtain this information as part of the tenant application process and to report this statistical information in its annual reporting. Should the Department find that its multifamily programs are inadequately serving these populations it reserves the right to make adjustments to the competitive process as needed.

E. Eligible Project Sponsors

Sponsors and borrowing entities may be organized on a for-profit or not-for-profit basis. Any individual, public agency or private entity capable of entering into a contract is eligible to apply, provided they or their principals have successfully developed at least one affordable housing project. The Department will evaluate all Sponsors, including the roles of any general partner(s) in a limited partnership, to determine if the Sponsor's roles, responsibilities, and benefits in the project development and operations are commensurate with activities normally undertaken or controlled by project developers and owners. The Sponsor will be reviewed to determine if adequate staffing levels exist to undertake and complete the project. The same criteria will be applied to evaluate Sponsor experience for purpose of awarding points. Sponsors of projects where at least 70 percent of the units consists of Supportive Housing units or Special Needs Population units are exempt from the requirement for previous development experience under limited conditions. See Section 7303 (d).

Sponsor entities must maintain sufficient control of the borrowing entity to ensure that the Ultimate Borrower has the resources and experience to develop, own and manage the project. Sponsors will be required to prepare a written narrative explaining how the Sponsor, identified in the application, has full control of the Ultimate Borrower entity and development of the project. The Sponsor must expressly describe the management and control for each entity in the organizational structure of the Ultimate Borrower. The narrative must be submitted with the organizational documents for the Ultimate Borrower and must cite the organizational documents, with reference to page, paragraph or section number, that evidence the Sponsor's control of the Ultimate Borrower. The narrative and supporting documentation must be submitted at the time the Ultimate Borrower is formed and in all cases, prior to the construction loan close. Where the requisite control cannot be shown, the Sponsor will be required to change its organizational structure accordingly to comply with the applicable regulations and the loan commitment. Sponsors must also demonstrate a minimum of 24 months experience in the ownership or operation of at least one Supportive Housing or Special Needs Population project with five or more units, and provide a letter of support from a local services funding agency. See Section 7343.

Sponsors must have site control in the name of the Sponsor or an entity controlled by the Sponsor as defined in Uniform Multifamily Regulations (UMR) Section 8303.

F. Eligible Uses of Funds

MHP funds will be provided as permanent financing only, and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in Section 7304. MHP funds may be used to capitalize a project operating reserve account up to the limit required under UMR Section 8308. Program funds may not be used for the cost of supportive services, although Department approved costs of on-site supportive services coordination may be treated as a project operating cost, payable from operating income. MHP funds must be attributable to the costs of “restricted” units (MHP units and units subject to a long-term regulatory agreement with occupancy and rent restrictions similar to those of MHP) or to the costs of facilities used for childcare, after-school care, and social service integrally linked to the restricted units.

G. Eligible Projects

Projects must qualify as rental housing developments, as defined in UMR Section 8301, and meet the requirements of Sections 7302 and 7342. For example, projects must contain five or more dwelling units.

Projects funded under this NOFA must contain Supportive Housing units, as defined in Paragraph B, equal to the greater of five units or 35 percent of the total project units. Supportive Housing units must be restricted to households with incomes not exceeding the greater of 30 percent Area Median Income (AMI) or State Median Income (SMI). Supportive Housing units must be used for permanent housing only. Non-Supportive Housing units may be used for either permanent or transitional housing.

Projects are ineligible if construction has commenced prior to submission of a complete application, or if the project is already fully funded. Projects must meet standards described in UMR Section 8310.

Supportive Housing projects restricting at least 35 percent of the total project units to occupancy by the Homeless and not utilizing increased loan awards available to those projects may utilize nine percent tax credits as approved by the Department. Other projects receiving nine percent tax credits are ineligible. Projects not serving the Homeless in at least 35 percent of the units which have a nine percent tax credit application pending at the time the MHP application is submitted will be disqualified. Furthermore, projects not serving the Homeless in at least 35 percent of the units which are submitted for MHP funding and subsequently for nine percent tax credits will be deemed ineligible, and the funding commitment will be immediately rescinded.

H. Projects with Extraordinarily High Development Costs

The Department is concerned about the extremely high cost of a number of projects funded in the recent past, and the extraordinary level of public subsidy

required by these projects. The Department may require a thorough justification of costs when the Department or the Local Assistance Loan and Grant Committee determine that proposed development costs exceed a normal range of development cost for the project's market area. In this period of rapidly rising development costs, it is especially important to encourage MHP funding of otherwise qualified projects that are able to minimize costs, without sacrificing design elements that are cost effective in the long run or meet vital needs of project residents.

In light of this concern, and consistent with UMR Section 8311, the Department reserves the right to reject an application if total development cost exceeds an amount that cannot be reasonably justified, in comparison to the costs for other similar developments of modest design in the general area. Projects may be required to justify the total development cost, if the cost substantially exceeds the Department's historical project costs for similar projects, with an allowance for increased construction costs.

In evaluating projects with high per unit costs, the Department will closely scrutinize the justification that costly design features were necessary to obtain local approvals or neighborhood acceptance. Similarly, the Department will be giving close scrutiny to projects with extraordinary site development costs (where they are not fully compensated for by a sharply discounted purchase price), or where the constraints of the site necessitate an especially expensive design.

Although the Department appreciates that individual developers may experience great difficulty locating more appropriate sites, it has concluded that the interests of the Program are best served by avoiding excessive site- and design-related costs.

I. Households Eligible for Supportive Housing Units

As defined in Section 7341, in order to be eligible for Supportive Housing units, households must be homeless or at-risk of homelessness, and include a disabled adult as specified below.

Homeless means:

1. moving from an emergency shelter; or
2. moving from transitional housing; or
3. currently homeless, meaning:
 - a. an individual who lacks a fixed, regular, and adequate nighttime residence; or
 - b. an individual who has a primary nighttime residence that is:
 - i. a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or

- ii. an institution that provides a temporary residence for individuals intended to be institutionalized; or
- iii. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

At-risk of homelessness means:

- 1. households with incomes at or below the greater of 20 percent of SMI or AMI with no rental subsidy available to the household; or
- 2. households with incomes above 20 percent but not exceeding 30 percent of the greater of SMI or AMI who:
 - a. face immediate eviction and have been unable to identify a subsequent residence; or
 - b. face imminent release from an institution (i.e., jail, hospital or foster care system) where other housing placement resources are not available; or
 - c. reside in an overcrowded setting (more than two persons per living/sleeping area) in which the household does not hold a lease; or
 - d. reside in substandard housing subject to a current official vacation notice; or
 - e. pay more than 50 percent of income in housing costs.

Note: For some occupied rehabilitation projects, household eligibility under these criteria may be established at the household's initial occupancy, which may have been prior to the rehabilitation work. Sponsors of rehabilitation projects are encouraged to provide project-specific detail and to seek Department technical assistance prior to submittal of applications.

A disabled adult is a person 18 years of age or older, or an emancipated minor with a qualifying disability. Qualifying disabilities are:

- 1. Mental illness; or
- 2. HIV or AIDS; or
- 3. Substance abuse; or
- 4. Developmental disability; or
- 5. Long-term chronic health condition that qualifies them for:
 - a. Eligibility under either of two Medicaid Waiver programs, the Multipurpose Senior Services Program or the Assisted Living Waiver Pilot Program (or its successor);

- b. Eligibility for 20 or more personal care hours per week under the In-Home Supportive Services Program; or
- c. Eligibility for services under the Program of All Inclusive Care for the Elderly.

Eligibility for these programs must be established by the agency responsible for determining eligibility for the benefits it provides.

J. Supportive Service and Property Management Requirements

Projects shall be designed to provide affordable housing with access to an array of services and amenities for tenants whose ability to live independently would be improved by the availability of such services and amenities. Supportive Housing projects shall be linked to on-site or off-site services that assist the tenant to: retain the housing, improve his or her health, and to maximize his or her ability to live and where possible, work in the community.

As part of the MHP application, Sponsors must submit a supportive services plan documenting that the project will ensure the availability of services that meet the needs of the target population served by the project, along with a line-item budget for the supportive services, itemizing all expenses and indicating the sources, amounts, and status (i.e., proposed or committed) of supportive service funds. The application must include commitments or letters of intent for a minimum of 25 percent of the total service budget – except where the Department may approve an exception based on documentation confirming a successful history of securing similar funding for supportive services for the intended tenant population. See Section 7345.

The primary service provider for the project must demonstrate a minimum of 24 months experience in the provision of services to the targeted population, and a successful history of securing funds for similar activities.

The property manager must have a minimum of 24 months experience in managing a Supportive Housing or Special Needs Population housing project that would qualify as a rental housing development pursuant to UMR Section 8301(o). For proposed projects with fewer than 10 units, the Department may approve a property management agent with experience managing projects that do not qualify as rental housing projects, provided the agent has at least 24 months experience managing housing for the specific population targeted by the proposed project.

Applications must include a description of the service needs of each target population that will be served, the expected sources of referrals, and the Sponsor's tenant selection criteria and tenant selection process.

K. Maximum Loan Amounts

The maximum loan per project is \$8,000,000. The maximum loan amount per Supportive Housing unit is a function of unit size, location, and affordability level. The current MHP unit loan calculation methodology includes a base loan amount

of \$30,000 plus an amount (calculated to compensate for lost debt service payment capacity) that increases proportionate to decreases in the rent restriction level. Because MHP General funds will not be available under this NOFA and to provide incentives for Southern California and for projects serving the Homeless, the base loan amounts under this NOFA have been increased to:

- \$50,000 per qualifying Supportive Housing unit;
- \$65,000 per qualifying Supportive Housing unit, occupied by a household which is Homeless, in projects with at least 35 percent of the total project units reserved for the Homeless if the project is not utilizing 9 percent tax credits;
- \$65,000 per qualifying Supportive Housing unit in Southern California; and
- \$80,000 per qualifying Supportive Housing unit, occupied by a household which is Homeless, in projects with at least 35 percent of the total project units reserved for the Homeless, if the project is not utilizing 9 percent tax credits and the project is located in Southern California.

Tables illustrating the per-unit loan limits and targeted income limits and rents are available on the Department's website and will be distributed with applications at the Application Workshops announced in Paragraph U.

L. Loan Terms and Security

Loans will have a 55-year term, and bear simple interest at the rate of 3 percent per year. For the first 30 years, annual payments will be required in the amount of 0.42 percent of the outstanding principal loan balance. The annual payment amount for the next 25 years will be set by the Department in year 30, and will be the minimum amount necessary to cover the Department's monitoring costs. Unpaid principal and accrued and deferred interest will be due at the end of the loan term.

Cash flow remaining after payment of all debt service, operating expenses, required reserves and allowable deferred Developer Fee and Distributions per UMR Section 8314 shall be applied toward repayment of the MHP loan. If the terms of other public agencies' financing also require payments from remaining cash flow, the Department may agree to share the remaining cash flow with the public agencies in proportion to the respective loan amounts.

MHP loan documents will include a promissory note, deed of trust and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, and amortizing loans from institutional lenders and the federal government provided no balloon payments are due prior to the end of the MHP loan term. MHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, unless the amount of the local loan is at least twice the amount of the MHP loan. See Section 7306(e) and UMR Section 8315.

The MHP loan must be secured by the fee or a leasehold interest in the property acceptable to the Department. The term of a leasehold interest must be at least 90 years (65 years where the lessor is a public entity) from the date the Department's documents are recorded, excluding any unexercised lease extensions. If the MHP loan is secured by a leasehold, the owner of the fee and the borrower must sign a recordable lease rider approved by the Department. See UMR Section 8316 for other leasehold requirements.

M. Rent and Occupancy Limits

MHP assisted unit rent and tenant incomes will be restricted in accordance with the rent and income limits proposed by the project sponsor in their MHP application, with rents not exceeding 30 percent of the applicable income limit. Occupancy of the Supportive Housing units must be limited to households with incomes not exceeding 30 percent of AMI. The maximum possible income and rent limits are those set by TCAC, using its calculation methods: 60 percent of AMI, adjusted by household size, and 30 percent of 60 percent of AMI, adjusted by bedroom size. These maximum limits are available on the TCAC website at <http://www.treasurer.ca.gov/CTCAC>.

Projects will be underwritten at the rent limits for the income levels proposed in the application. The Department's first year debt coverage ratio requirement of 1.1 to 1.2 will be applied using the maximum rents allowable.

Assisted unit rent increases will be limited in accordance with the rules governing tax credit units and as specified in Sections 7311 and 7312. Where the project receives Section 8 or other rental assistance subsidies, "rent" is defined as the tenant's contribution, rather than the contract rent level. Sponsors of this type of project will be required to continue the rental assistance as long as it is available. Projects with rental subsidies must also be feasible with 50 percent of AMI rents for units garnering income-targeting points, in the event the rental assistance is terminated in accordance with Sections 7301(z) and 7312(d).

N. Developer Fee and Distribution Limitations

Developer fees mean the same as the definition of that term in the California Code of Regulations, Title 4, Section 10302. Developer fees are limited in accordance with the schedule shown in UMR Section 8312, which was adjusted for inflation in 2006 pursuant to UMR Section 8312. Distributions to the sponsor out of operating income are also limited in accordance with UMR Sections 8312 and 8314. The 2006 Developer Fee limits currently in effect are as follows:

- For new construction projects and rehabilitation projects where the cost of the rehabilitation (excluding contractor overhead and profit) is equal to or greater than \$25,000: \$21,000 for the first 30 units and \$8,500 for units over 30.
- For acquisition/rehabilitation projects where the cost of rehabilitation is at least \$7,500 per unit but less than \$25,000 per unit: \$10,000 for the first 30 units and \$4,500 for units over 30.

O. HUD Section 811 Projects.

For HUD Section 811 projects, the Sponsor must demonstrate its ability to make the required annual MHP debt payment (0.42 percent for the first 30 years, then adjusted to cover the Department's cost of monitoring the loan) over the 55-year term of the MHP loan. This may be done by capitalizing a reserve account, within the Development Budget, in an amount sufficient to cover the annual payment over the 40 year term of the HUD loan. However, please note that MHP bond funds awarded under this NOFA are not available to fund this reserve.

Prior to commencement of construction, the Sponsor must also provide the Department with evidence of HUD approval of the HCD approved Tenant Selection Plan, including specifically the deep income targeting and the homeless (or at risk of homeless) criteria required by the MHP Supportive Housing loan.

The Department will defer to the HUD reserve requirements for the life of the HUD loan. Upon expiration of the HUD loan, the Sponsor will then comply with the MHP requirements for both operating and replacement reserve accounts.

P. Prevailing Wage Requirements.

Pursuant to Health and Safety Code section 50675.4(c)(2), projects receiving assistance under this NOFA are subject to State prevailing wage law, as set forth in Labor Code Section 1720 et seq.

Q. Important Legal Matters.

The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, the Department will notify all interested parties. This NOFA provides a partial summary of the MHP statute and regulations. In the interest of brevity, it does not cover many aspects of those governing documents, some of which may be of critical importance to individual projects. For this reason, applicants are urged to carefully review the regulations before submitting applications.

Article XXXIV of the California Constitution requires advance voter approval of certain publicly funded and regulated low-income housing projects. Projects funded by MHP must either have Article XXXIV approval or be exempt from the need for this approval.

Sponsors must also be very careful to avoid violation of laws barring housing discrimination. The Department will review proposed tenant selection criteria for potential violations of these laws. It may condition funding on the elimination of restrictions that it believes to be impermissible, or reject an application where it determines that compliance with applicable law is not feasible.

As a general rule, tenant selection criteria that have the effect of discriminating against protected classes, such as those based on race, color, religion, sex, age, marital status, familial status, disability, national origin and sexual orientation, are prohibited. On the other hand, housing providers may establish reasonable selection criteria that are rationally related to the services performed and the

facilities provided. The determination of whether tenant selection criteria are reasonable and whether the services and facilities are rationally related depends on several factors, including the specific needs of the targeted population, the nature and extent of the services and facilities provided, and sources of funding, other than funds from MHP, for such services and facilities. For example, a Sponsor proposing to serve tenants with a particular disability may not be able to justify excluding persons with other disabilities having similar needs. Other than the ban on discrimination against protected classes, there are often few bright line rules to help Sponsors avoid illegal discrimination and each proposal must be analyzed on its own facts.

This is a very complex and, in many ways, unsettled area of law. Sponsors are encouraged to seek professional advice if there is any doubt that their proposal may run afoul of non-discrimination and fair housing laws. A useful resource is *Between the Lines, A Question and Answer Guide on Legal Issues in Supportive Housing*, recently published by the Corporation for Supportive Housing. This document is available online at www.csh.org, or by calling the publisher at (510) 251-1910.

In evaluating tenant selection criteria for Supportive Housing applications, the Department will first examine whether the criteria resulted from federal or state funding, as an indicator of legislative authorization. It will then review other aspects of the selection criteria, the services and facilities proposed to meet the needs of the targeted group and the proposed sources of other funding. If an applicant disagrees with the determination of the Department, it may seek an alternate opinion from the California Department of Fair Employment and Housing (DFEH). The Department will defer to DFEH's opinion. Please be advised that a proposal may have substantial discrimination problems even though it targets a group specifically listed in the definition of Supportive Housing or Special Needs Populations in Sections 7301 (r) and 7341.

R. Funding Compatibility

Sponsors typically anticipate using an array of funding sources to fund the construction and permanent financing of their projects. The Sponsor should determine, prior to applying for the MHP funds, that the requirements of the non-MHP funding sources are compatible with the requirements of the MHP. For example, compatibility issues have arisen with local and federal funding sources related to:

- The required terms of the MHP security when the security for the MHP loan is in a leasehold interest (UMR Section 8316);
- The MHP prohibition of senior debt that has a provision for a "balloon" payment. Often, bond financing provisions include interest rate resets with potential calls prior to the full amortization term of the loan. Any interest rate resets or similar provisions governing senior debt shall be subject to the approval of the Department and must include an interest rate cap acceptable to the Department which shall not jeopardize the feasibility of the project.
- The mandatory payment to HCD of the .42 percent debt service;

- The MHP requirement to target some of the project rents to extremely low income households that are below the federal income eligibility standard; and
- The State statutory requirement that projects financed with MHP pay no less than the State prevailing wage rate.

APPLICATION PROCEDURES

S. Application Process

The Application form will be available on the Department website on or about January 19, 2007. Applications for this funding round will be considered on an “**over-the-counter**” basis until available funds are exhausted. Applications will be accepted from 8:00 a.m. on February 1, 2007 until 5:00 p.m. May 30, 2007 or until such time before May 30, 2007 that the Department has received what it determines to be a sufficient number of applications to reasonably use all funds currently available.

Applications will be reviewed in the order in which they are received. The Department will endeavor to complete an initial staff review within 15 working days after receipt of the application. The initial staff review will include determinations of completeness, threshold eligibility issues, and initial point scores. Qualifying projects will then move forward into a feasibility review. Qualified projects successfully passing all reviews will be scheduled for presentation to the Department’s Local Assistance Loan and Grant Committee (the “Committee”) each month beginning in April 2007. The Department will endeavor to schedule all recommended applications for presentation before the next Committee Meeting held 60 days after receipt of the last item required for review. The Department’s date stamp on the last item required to complete the review will be used to determine the order in which applications are presented to the Committee.

As more particularly described in Paragraph W below, projects must receive a minimum score of 125 points, as determined by Department staff, in order to be considered for a funding award. Additionally, projects must score at least four points in the Development and Ownership Experience of the Project Sponsor point category and at least five points in the Project Readiness point category.

The Department will give notice on the Department’s website when a sufficient number of applications have been received to exhaust the Supportive Housing funds offered under this NOFA. Applications will not be accepted after such notice. Any applications received prior to the notice that are deemed eligible for funding will be prioritized based on the Department’s date and time stamp for the completed application. When the \$37 million in Supportive Housing funds has been exhausted, any remaining applications may be returned to the Sponsor for submittal in a future funding round. The Department reserves the right to award more than \$37 million under this NOFA if necessary to fully fund the last approved project and may issue a second NOFA in calendar year 2007.

T. Optional Pre-application/Technical Assistance

A pre-application is not required. The optional pre-application will provide a means for the Department to provide project-specific technical assistance prior to the submittal of a complete application. The Department will review and evaluate the pre-applications for sponsor and project eligibility, site control, development experience, Supportive Housing Project Plan, financial data, and establish a preliminary point score for the project. A full and complete application must be submitted before full evaluation and scheduling the project for presentation to the Committee as outlined in Paragraph S.

Any application section or combination of sections may be submitted as a pre-application and utilized for technical assistance purposes.

U. Application Workshops

Application workshops (no registration is required) are scheduled as follows:

| Date | Location | Presentation Time |
|------------------|--|--------------------------|
| January 31, 2007 | Carmel Room, 1 st Floor Junipero Serra State Building 320 W. Fourth Street Los Angeles, CA | 9:30 a.m. – 1:30 p.m. |
| February 8, 2007 | HCD Headquarters 1800 Third Street, Room 183/185 Sacramento, CA | 9:30 a.m. – 1:30 p.m. |

V. Application Submittal Procedures

Applications must be submitted on forms provided or approved by the Department. Application forms must not be modified. A complete original application, plus one copy, must be received by the Department.

To receive an application package, please visit the Department's website on or about January 19, 2007, or contact Janet Opee at (916) 327-2886 or jopee@hcd.ca.gov. Applications must be delivered to one of the following addresses:

U.S. Mail

Janet Opee
Department of Housing and
Community Development
Division of Financial Assistance
P.O. Box 952054
Sacramento, CA 94252-2054

Private Carrier

Janet Opee
Department of Housing and Community
Development
Division of Financial Assistance
1800 Third Street, Room 390-5
Sacramento, CA 95814

It is the applicant's responsibility to ensure that its application is clear, complete and accurate. After the application has been received, MHP staff may request clarifying information.

W. Application Point Scoring

The criteria that will be used to score projects are described in Sections 7320 and 7346, and summarized below. In assessing whether a project is "At-risk," MHP will use the same standards as TCAC. See TCAC's regulations, Section 10325(g)(5), available on their website, identified in Paragraph M.

Projects must receive a minimum point score of 125, as determined by MHP staff, in order to be considered for a funding award. Additionally, projects must score at least four points in the Development and Ownership Experience of the Project Sponsor category and at least five points in the Project Readiness category.

| Criterion | Max. Points | <u>Comments</u> |
|---|--------------------|---|
| Extent Project serves the lowest income levels. | 35 | The income levels referenced in the regulations are posted on the Department website. |
| Extent the Project addresses the most serious local housing needs. | 15 | Local housing need is established on the basis of verification by the locality and for some mixed projects, by documenting the market vacancy rate. |
| Development and ownership experience of the Sponsor | 20 | Minimum point score of four points is required. Experience for the prior 10 years is considered. |
| Percentage of units for families or Supportive Housing units and "At-risk" Rental Housing Developments. | 35 | Because projects eligible to apply under this NOFA must have at least 35 percent supportive housing units, they will automatically receive full points in this scoring category. |
| Leverage of other funds. | 20 | Projects demonstrating collaboration and focus on measurable outcomes and service utilization will receive a competitive advantage in the leverage category. See application and Section 7346(c) for specific requirements. |
| Project readiness | 15 | Minimum point score of five points is required. The total score is the sum of point awards in six sub-categories measuring readiness. |
| Adaptive Reuse/Infill/Proximity to amenities | 10 | Points awarded to adaptive reuse and infill projects, or those near specified amenities. |
| Local commitment of at least 5 years for services or rental subsidy | 5 | Points awarded to applications documenting such commitments for at least five years. |
| Total | 150 | Note: although mathematically possible to score 155 points, maximum reportable score shall be 150 points. |

X. Disclosure of Application.

Information provided in this application will become a public record available for review by the public pursuant to the Public Records Act. As such, any materials provided will be disclosable to any person making a public records request. As such, we caution you to use discretion in providing us with information that is not specifically requested, including but not limited to, bank account numbers, personal phone numbers and home addresses. By providing this information to the Department, the sponsor is waiving any claim of confidentiality and consents to the disclosure of all submitted material upon request.

Questions should be directed to the MHP program staff at (916) 323 - 3178. Thank you for your interest in the Multifamily Housing Program.

Sincerely,

Richard L. Friedman
Deputy Director